

Exhibit

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

STATE OF CALIFORNIA, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, *et al.*,

Defendants.

No. 1:25-cv-208-JJM-PAS

PLAINTIFF STATES' RESPONSE TO ORDER TO SHOW CAUSE

On May 14, 2025, the Court entered an order asking the parties whether this case should be consolidated with *Illinois v. FEMA*, No. 25-cv-206 (D.R.I. filed May 13, 2025) (*FEMA*). May 14, 2025 Order. Plaintiff States agree that the two cases could permissibly be consolidated because they involve some “common question[s] of law,” Fed. R. Civ. P. 42(a); *Seguro de Servicio de Salud de Puerto Rico v. McAuto Sys. Grp., Inc.*, 878 F.2d 5, 8 (1st Cir. 1989), but on balance do not think that consolidation would best promote the efficient resolution of these cases. Defendants do not oppose Plaintiff States’ position that these two cases can remain separate actions. But Plaintiff States will, of course, proceed however the Court thinks would best serve the interest of “secur[ing] the just, speedy, and inexpensive” resolution of both cases, Fed. R. Civ. P. 1, whether by consolidating these cases or proceeding separately in each.

As the Court is aware, this case and *FEMA* each challenge efforts by federal agencies to impose funding conditions related to immigration enforcement. Compl. ¶¶ 1-8, *Illinois v. FEMA*, No. 25-cv-206 (D.R.I.) (*FEMA* Compl.); Compl. ¶¶ 1-15, *California v. U.S. Dep’t of Transp.*, No. 25-cv-208 (D.R.I.) (*DOT* Compl.). Plaintiff States in each case contend that the applicable

defendants' decision to impose these conditions exceeds their statutory authority, is arbitrary and capricious in violation of the Administrative Procedure Act, and violates the Spending Clause. *See FEMA* Compl. ¶¶ 300-32; *DOT* Compl. ¶¶ 206-41. The two cases thus involve overlapping “question[s] of law,” Fed. R. Civ. P. 42(a), in the sense that they will require the Court to consider the application of similar legal principles to the terms and conditions each agency has attempted to impose.

At the same time, there are also factual and legal distinctions between the two cases. The cases arise from and challenge two different sets of agency actions taken by two different sets of agency defendants: the Department of Homeland Security and its sub-agencies in *FEMA*, *see FEMA* Compl. ¶¶ 32-37, and the Department of Transportation in this case, *see DOT* Compl. ¶¶ 39-40. The conditions imposed by these defendants also differ: Defendants in *FEMA* have sought to impose seven separate conditions touching on immigration enforcement applicable to funds under their control, *FEMA* Compl. ¶¶ 262-63, whereas defendants in this case have so far sought to impose only one federal immigration enforcement condition, with different language, on funding overseen by multiple sub-agencies, *DOT* Compl. ¶¶ 182-86. There is thus no materially “common question of . . . fact,” Fed. R. Civ. P. 42(a), that will require adjudication in these cases; rather, the cases will require the application of similar legal principles to different conditions imposed by different defendants operating under different sources of statutory authority. For that reason, even the questions of law presented by these cases are not fully identical, in that the claims alleged in each case must be resolved in light of two distinct statutory schemes and administrative records. Thus, although the cases involve the application of overlapping legal principles, they are not two pieces of one case.

The factual and legal differences between the two cases explain why Plaintiff States filed these cases separately and did not relate them. *See* Local Rules Cv 5(b)(1) (related cases involve “some or all of the same parties” and “the same or substantially similar issues of fact”). In Plaintiff States’ view, those differences also counsel against consolidation, because any judge assigned to hear both cases would have to become familiar with two different statutory regimes and administrative records, rather than simply adjudicating common questions of fact and law that would resolve both cases at one time. *See* 9A Wright et al., *Federal Practice and Procedure* § 2383 (3d ed. 2008) (courts consider whether consolidation will “waste judicial resources”). It is also possible that the two cases will proceed on different paths, which could also undermine the benefits of consolidation. *See id.* (courts consider “the effective management” of the litigation in deciding whether to consolidate cases).

Plaintiff States are ultimately committed to managing this litigation in any manner that will “avoid unnecessary cost or delay” to the parties and the Court alike. Fed. R. Civ. P. 42(a)(3). In Plaintiff States’ view, consolidation likely would not best promote the efficient resolution of these actions, given the burdens that consolidation might impose on the single judge assigned to hear both cases and the relatively modest benefits consolidation might present. But we are prepared to litigate our claims either in one consolidated proceeding or in separate proceedings, as the Court prefers.

May 19, 2025

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CERTIFICATE OF SERVICE

Case Name: State of California et al. v. U.S.
Dep't of Transportation, et al. No. 1:25-cv-00208-JJM-PAS

I hereby certify that on May 19, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **PLAINTIFF STATE' RESPONSE TO ORDER TO SHOW CAUSE**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am employed in the Office of the Attorney General of the State of California. My business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013-1230, County of Los Angeles. I am familiar with the business practice at the Office of the Attorney General for collection and processing of electronic mail correspondence. My electronic service address is Alfred.Palma@doj.ca.gov. In accordance with that practice, correspondence placed within the electronic mail system of the Office of the Attorney General that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On May 19, 2025, I have electronically served the aforementioned document[s] by emailing them to the following individual[s]:

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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on May 19, 2025, at Los Angeles, California.

Alfred Palma
Declarant

/s/ Alfred Palma
Signature